

REMARKS

Claims 30-43, 58, and 59 are currently pending, and previously-withdrawn claims 1-29 have been cancelled. By this amendment, new claims 60-68 have been added. Accordingly, claims 30-43 and 58-68 are at issue.

I. Rejections Under 35 U.S.C. § 112

In paragraph 5 of the Office Action, claims 39 and 40 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Office Action asserts that the term “dryable coating” has no antecedent basis. Claims 39 and 40 have been amended to depend from claim 38, providing antecedent basis for this term. Accordingly, Applicant submits that these rejections have been addressed, and respectfully requests withdrawal of the same.

II. Rejections Under 35 U.S.C. § 102

A. Rejections Over Jones

In paragraph 7 of the Office Action, claims 30, 32-36, and 58 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,522,155 to Jones (“Jones”). Applicant submits that Jones does not disclose, teach, or suggest all the elements of claims 30, 32-36, and 58, as amended herein.

Claim 30, as amended, includes, among other features, “an air tight seal permanently closing the outer end of the hole.” Jones does not disclose at least this element of amended claim 30. Jones discloses a container (1) having a stopper (2 or 11) with a port (14) sealed by a venting medium (30). (Jones, FIGS. 1 and 2). The port (14) is releasably sealed by a movable plug (5 or 20) that can be raised and lowered to seal and unseal air passage to the port (14). (Jones, Col. 4, Lns. 20-31). The movable plug (5, 20) is not disclosed by Jones to permanently close the port (14). On the contrary, Jones discloses that the plug is movable to seal and unseal the port, and in one embodiment, even discloses structure to allow the upward and downward movement of the plug (17”). (See Jones, Col. 4, Lns. 32-37). Accordingly, Jones does not disclose a permanent seal closing the port (14). Thus, Jones does not disclose at least the above element of claim 30,

and cannot anticipate claim 30.

Claims 32-36 and 58 depend from claim 30 and include all the elements thereof. Thus, for the same reasons as claim 30, Jones cannot anticipate claims 32-36 and 58.

B. Rejections Over Mussi

In paragraph 8 of the Office Action, claims 30, 38-43, and 58 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,358,872 to Mussi et al. ("Mussi"). Applicant submits that Mussi does not disclose, teach, or suggest all the elements of claims 30, 38-43, and 58, as amended herein.

Claim 30, as amended, includes, among other features, "an air tight seal permanently closing the outer end of the hole." Mussi does not disclose at least this element of amended claim 30. Mussi discloses a closure for a container that includes a cap (20) with an orifice (23) and a gas permeable membrane (22) associated with the orifice. (Mussi, Col. 5, Lns. 19-20). Several peel away thin film labels (26) are removably attached to the top of the cap to cover and/or selectively occlude the gas permeable membrane. (Col. 3, Lns. 10-30; Col. 5, Lns. 34-37). The sealing membrane (32) is explicitly designed to peel away from the cap to be releasable and resealable, and even has a tab (30) to assist in such removal. (Mussi, Col. 5, Lns. 47-53). Accordingly, Mussi does not disclose a permanent seal closing the orifice (23). Thus, Mussi does not disclose at least the above element of claim 30, and cannot anticipate claim 30.

Claims 38-43 and 58 depend from claim 30 and include all the elements thereof. Thus, for the same reasons as claim 30, Mussi cannot anticipate claims 38-43 and 58.

III. Rejections Under 35 U.S.C. § 103

In paragraph 10 of the Office Action, claim 31 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of U.S. Patent No. 5,596,814 to Zingle et al. ("Zingle"). Additionally, in paragraph 10 of the Office Action, claim 37 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones. As described above, Jones does not disclose, teach, or suggest a permanent seal closing a hole having an air permeable membrane closing the inner surface thereof. Zingle also does not disclose, teach, or suggest the use of such a permanent seal. Zingle discloses a closure (10) similar structurally to that of Jones, and also used for a similar

purpose as Jones. The closure of Zingle contains a stopper (10) having an opening (18) with a membrane (14) positioned over the opening. (Zingle, Col. 4, Lns. 9-19). In one embodiment, the opening has a plug (24) inserted therein that can be raised and lowered to seal and unseal air passage to the opening. (Zingle, Col. 4, Lns. 34-51). Like Jones, Zingle also does not disclose that the plug permanently seals the opening, and does not disclose any permanent connection between the plug (24) and the stopper (10). Accordingly, Zingle also does not disclose the recited hole with a permanent seal. Thus, the cited references do not disclose at least the above element of claims 31 and 37, and no prima facie case of obviousness has been established with respect to claims 31 and 37.

Additionally, Jones and Mussi both strongly teach away from applying a permanent seal to cover the air-permeable membrane. Mussi, in particular, repeatedly asserts the advantages of using a removable, resealable seal for the disclosed closure, allowing the membrane to be selectively occluded. (See Mussi, Col. 3, Lns. 54-63; Col. 4, Lns. 1-5; Col. 5, Lns. 34-37). Jones also teaches that the disclosed plug should be movable to vent and seal the air passage to the opening, and in one embodiment, even discloses structure to allow the upward and downward movement of the plug. (See Jones, Col. 4, Lns. 20-37). Accordingly, one skilled in the art, upon reading the teachings of Jones and Mussi, would be discouraged from modifying the disclosed structures to include a permanent seal. Thus, no prima facie case of obviousness can be formed with respect to the present claims by reliance upon Jones and/or Mussi.

IV. New Claims

New independent claim 60 contains, among other elements, “an air-impermeable sealing material irremovably contained within the hole to provide an air-tight seal over the air permeable membrane.” As described above, the cited references do not disclose a hole closed by an air permeable membrane and having a permanent seal. Similarly, the cited references do not disclose such a hole having a sealing material irremovably contained therein. Thus, claim 60 is patentable over the cited references, as well as dependent claims 61-62 depending therefrom.

New independent claims 63 and 66 recite that the through-going hole is located in the body of the container, rather than in “at least one of the closure and the body,” similarly to previously presented claim 59. None of the cited references disclose, teach, or suggest a

container having the through-going hole in the container body, rather than in the cap.

Accordingly, claims 63 and 66 are patentable over the cited references, as well as dependent claims 64, 65, 67, and 68 depending therefrom.

CONCLUSION

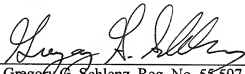
In view of the foregoing, Applicant respectfully requests reconsideration of the Examiner's rejections and objections, and allowance of claims 30-43, 58, and 59 in the present Application. Applicant also respectfully requests examination and allowance of new claims 60-68. Applicant submits that the Application is in condition for allowance and respectfully requests an early notice of the same.

Please charge all fees in connection with this communication to Deposit Account No. 19-0733.

Respectfully submitted,

Dated: September 10, 2007

By: _____


Gregory G. Schlenz, Reg. No. 55,597
Banner & Witcoff, Ltd.
Ten South Wacker Drive, Suite 3000
Chicago, Illinois 60606
312.463.5000